

EXECUTIVE OFFICER SUMMARY REPORT  
August 12, 2009

- ITEM: 5
- SUBJECT: CONSIDERATION OF SETTLEMENT: Administrative Assessment of Civil Liability against Ametek Inc. (Ametek) (former Ametek/Ketema Aerospace Manufacturing Facility) for violation of Cleanup and Abatement Order No. R9-2002-0201. The Regional Board will consider adoption of Order No. R9-2009-0091 Assessing Administrative Civil Liability in accordance with the terms of a settlement agreement between the Regional Board Prosecution Team and Ametek. The Order would resolve violations alleged in Complaint No. R9-2008-0033. The settlement includes: (1) payment of \$600,000 to the Regional Board for reimbursement of staff costs and to the State Water Resources Control Board Cleanup and Abatement Account; and (2) suspension of the remaining civil liabilities pending Ametek's completion of specified actions set forth in an agreed upon Cleanup and Abatement Order to the satisfaction of the Regional Board. If the Regional Board rejects the settlement, the matter will be rescheduled to a future public hearing at which time the Regional Board will consider assessment of civil liability. (Tentative Order No. R9-2009-0091) (Laurie Walsh)
- PURPOSE: The Regional Board will consider whether to adopt an Order to accept the recommendation of \$1,095,000 in administrative civil penalties to the State Water Resources Control Board Cleanup and Abatement Account in accordance with the terms of the settlement agreement and Cleanup and Abatement Order (CAO) No. R9-2009-0073.
- PUBLIC NOTICE: On January 6, 2009, Complaint No. R9-2008-0033 and its supporting documents were posted on the Regional Board website and distributed to known interested parties. The Regional Board sent notice of today's item by posting on the Regional Board website, and by electronic mailing to known interested parties on July 23, 2009.

DISCUSSION:

Ametek owned and operated an aerospace and electronic manufacturing business at 790 Greenfield Drive in El Cajon, California (the Property) from 1968 to about 1987 (Supporting Document No. 1). Straza Industries, the previous owner, installed a sump in 1963 for storage of on-site derived wastes. The sump was operated by Ametek from 1968 until approximately the mid-1980's. The sump was removed in 1987. The sump received liquid wastes including chlorinated solvents [1,1,1, Trichloroethane (1,1,1 TCA); Trichloroethene (TCE); 1,1 Dichloroethene (1,1 DCE); 1,1-Dichloroethane (DCA); Tetrachloroethylene (PCE)]; spent acids, and nonhalogenated petroleum hydrocarbon wastes (benzene, toluene, ethylbenzene, and xylenes). Over time wastes discharged from the sump into soil and groundwater at the site caused violations of applicable water quality standards. Continued discharges of wastes from soil to groundwater, and continued migration of chlorinated solvents in the groundwater have created a plume of pollutants extending one mile downgradient of the sump.

The discharge of waste from the sump has created a condition of pollution in waters of the State as defined in California Water Code (Water Code) section 13050(l). The groundwater quality caused by the waste releases exceed the water quality objectives needed to support Municipal and Domestic Supply (MUN) uses, and are potentially injurious to the public health. This water quality condition caused by the discharge constitutes a nuisance condition because it interferes with and complicates the use of groundwater for drinking water purposes and can be considered an obstruction to the free use of property as provided in Water Code section 13050(m).

ACL Complaint No. R9-2008-0033

On October 7, 2008, the Branch Chief of the Regional Board issued ACL Complaint No. R9-2009-0033 (Supporting Document No. 2) to Ametek for alleged violations of CAO No. R9-2002-0201. The alleged violations included Ametek's failure to submit a complete delineation report as required by Directive No. 1; and failure to complete a Feasibility Study Report as required by Directive No. 3. Under Water Code section 13350, the alleged violations in

Complaint No. R9-2008-0033 warranted a maximum civil liability of \$10,950,000, and a minimum civil liability of \$1,095,000. ACL Complaint No. R9-2008-0033 was issued for \$2,269,000 based on total number of days of violation for both violations.

Proposed Settlement Agreement: Order No. R9-2009-0091

The initial ACL Complaint recommended an amount of \$2,269,000, but was subsequently revised to \$1,095,000 based on a revised calculation of the number of days of violation.

As part of the settlement, it was agreed that Ametek pay \$600,000 within 30 days of issuance of the Regional Board's Order approving the settlement agreement (Supporting Document No. 3). The Regional Board agrees to suspend the remaining balance of \$495,000 in administrative civil liabilities, subject to Ametek's compliance with the terms and conditions of CAO No. R9-2009-0073 (Exhibit B to Order No. R9-2009-0091, Supporting Document No. 3). In the event Ametek fails to timely complete delineation and characterization of the plume, in accordance with the terms and conditions of CAO No. R9-2009-0073, Ametek will remit the \$495,000 in suspended administrative civil liability to the Cleanup and Abatement Account within 30 days of written demand by the Regional Board. In the event Ametek complies with the delineation and characterization requirements of CAO No. R9-2009-0073, but fails to submit (in a timely manner) an interim remedial action plan in accordance with the terms and conditions of CAO No. R9-2009-0073, Ametek will remit the \$495,000 in suspended civil liability within 30 days of written demand by the Regional Board. In the event Ametek timely complies with both CAO No. R9-2009-0073 delineation and characterization requirements, and interim remedial action requirements, the Regional Board agrees to permanently waive Ametek's obligation to pay the suspended administrative civil liability set forth in Tentative Order No. R9-2009-0091.

Cleanup and Abatement Order No. R9-2009-0073

As part of the settlement agreement the Regional Board agrees to suspend the remaining balance of \$495,000 in administrative civil liabilities, subject to Ametek's compliance

with the terms and conditions of CAO No. R9-2009-0073, which supersedes CAO No. R9-2002-201 and Investigative Order No. R9-2003-272. CAO No. R9-2009-0073 requires Ametek take all corrective actions necessary to investigate, cleanup waste, and abate the effects of waste discharges of all chlorinated solvents, volatile chlorinated chemicals, and metals at the property. Corrective actions include the following phases of cleanup and abatement described in Directives B through F of CAO No. R9-2009-0073: (1) Site Investigation and Characterization phase; (2) Interim Remedial Actions phase; (3) Remedial Investigation and Feasibility Study phase; (4) Remedial Action Plan Implementation phase; and (5) Cleanup and Abatement Completion Verification phase.

LEGAL CONCERNS: NONE.

SUPPORTING  
DOCUMENTS:

1. Location Map
2. ACL Complaint No. R9-2008-0033 & Supporting Technical Analysis
3. Tentative Order No. R9-2009-0091, Settlement Agreement, and CAO No. R9-2009-0073

RECOMMENDATION: The adoption of Tentative Order No. R9-2009-0091 is recommended assessing a total civil liability of \$1,095,000 against Ametek Inc. for the violations alleged in Complaint No. R9-2008-0033.